

H 11446

CONGRESSIONAL RECORD — HOUSE

December 9, 1974

less, of course, a recipient of a loan defaults on repayment.

I urge the adoption of House Resolution 1485 in order that H.R. 5385 may be considered.

Mr. MARTIN of Nebraska. Mr. Speaker, I yield myself such time as I may consume.

(Mr. MARTIN of Nebraska asked and was given permission to revise and extend his remarks.)

Mr. MARTIN of Nebraska. Mr. Speaker, the distinguished gentleman from Hawaii (Mr. MATSUNAGA) has explained the resolution, and as that gentleman said, the resolution provides for an open rule with 1 hour of debate on the bill H.R. 5385, the Surface Transportation Act of 1974.

This bill provides for up to \$2 billion in guaranteed loans to the railroads to assist them in improving and modernizing their physical plant and the purchase of new freight cars. In addition, the bill authorizes \$15 million to conduct two studies, one the national freight car utilization system and, second, a railroad electrification study.

I would like to point out, Mr. Speaker, that rail transportation is by far the most economical and the cheapest of any transportation that we have in the country today. To move 1 ton a mile by rail, the locomotive consumes 750 Btu's, a truck consumes 2,400 Btu's, and a plane consumes 63,000 Btu's. Rail transportation is extremely important to our country. I support the rule and I support the legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. MATSUNAGA. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from New Jersey (Mr. THOMPSON).

(Mr. THOMPSON of New Jersey asked and was given permission to revise and extend his remarks.)

Mr. THOMPSON of New Jersey. Mr. Speaker, I shall seek to defeat the previous question on the rule in order to amend the rule. I hope to strike the provision in the rule that makes H.R. 7189, a nongermane bill, in order as an amendment to the Surface Transportation Act.

In form, H.R. 7189 would amend the Railway Labor Act. In substance it amends the National Labor Relations Act, or Taft-Hartley.

I want to emphasize, however, that I am in complete support of the Surface Transportation Act without H.R. 7189 attached to it.

This position, I might say, is expressed in a letter to the Speaker dated December 9 from the Secretary of Labor. This position is also supported by Mr. Usery, the head of the Federal Mediation and Conciliation Service.

H.R. 7189 would prohibit strikes or walkouts in the longshore or maritime industries on the west coast which interfere with shipping between the west coast, Hawaii, Guam, and the other Pacific islands for a period of 160 days. The antistrike position is enforceable on petition to a U.S. district court for an injunction or temporary restraining order, and would be in addition to the injunction

available under section 208 of Taft-Hartley of 1947.

The bill permits an injunction to be obtained whenever there is any interruption whatsoever in commerce. Such interruption could be determined to exist if a single ship is delayed as much as 48 hours. The Federal district court is not, under this bill, expected to make a judgment as to whether a genuine emergency exists before issuing an injunction. Unlike the National Labor Relations Act, this proposal determines conclusively that "any disruption" of maritime commerce on the west coast automatically imperils the health and well-being of the people of Hawaii and other affected islands. And I would say, parenthetically, that I am in deep sympathy with the problems of Hawaii, but Hawaii is not in any way the only State with this problem.

The city of New York, for instance, can be completely isolated by a tugboat strike.

H.R. 7189 amounts to a virtual prohibition against maritime and longshoremen strikes in Hawaii. That would be the practical effect of a 160-day moratorium added to the 80-day Taft-Hartley injunction.

It is generally realized that some economic disruption accompanies any strike, and traditionally we have accepted such disruption to encourage free collective bargaining.

I agree with Mr. Usery that the injunction provided for in this bill will not encourage labor or management to seek peaceful means of resolving their differences through collective bargaining. One may question the wisdom of legislation on behalf of the State of Hawaii in this unique and isolated way. One must seriously question whether Hawaii suffers more seriously than the 37,000 communities in the Nation which are served exclusively by truck transportation when there is a truck strike—or the city of New York, when the tugboats, their captains and crews go on strike. New York is also an island.

Mr. PERKINS. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON of New Jersey. I yield to the gentleman from Kentucky.

Mr. PERKINS. I thank the gentleman for yielding.

Mr. Speaker, if I understand the gentleman's amendment and what he is seeking to do here, we must first vote down the previous question before the gentleman from New Jersey will be permitted to offer his amendment. No one is fighting the Surface Transportation Act at all.

Mr. THOMPSON of New Jersey. That is right.

Mr. PERKINS. We just want the Surface Transportation Act to proceed on its merits without this amendment attached. The Matsunaga amendment does not belong to it—it belongs in the gentleman's subcommittee—and should be deleted.

Mr. THOMPSON of New Jersey. The chairman is exactly correct. The amendment is on page 2 of the rule to strike out the sentence beginning on line 10 and

ending with the word "substitute" on line 13. That simply takes the Matsunaga bill out of the Surface Transportation Act, which I shall enthusiastically support.

The SPEAKER. The time of the gentleman has expired.

Mr. MATSUNAGA. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. PHILLIP BURTON).

(Mr. PHILLIP BURTON asked and was given permission to revise and extend his remarks.)

Mr. PHILLIP BURTON. Mr. Speaker, I, too, join with my colleague, the gentleman from New Jersey, in opposing the vote on the previous question. I intend to vote for the legislation out of the committee. But I think it is a very ill-advised procedure that the Committee on Rules, without a hearing on the merits, affix this kind of amendment to legislation being reported out of another committee.

This House has a way of referring back to actions of previous Congresses. On occasion they are called precedents.

I would urge those who prefer that this kind of action by the Committee on Rules be discouraged rather than encouraged bear in mind that "what is good for the goose in the 93d Congress may be good for the gander in the 94th Congress." So I urge a vote against the previous question and then a vote to change the rule.

Mr. Speaker, I yield back the balance of my time.

Mr. MATSUNAGA. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. ADAMS).

(Mr. ADAMS asked and was given permission to revise and extend his remarks.)

Mr. ADAMS. I thank the gentleman for yielding.

Mr. Speaker, I want to support the position of the gentleman from New Jersey (Mr. THOMPSON) and the gentleman from California (Mr. PHILLIP BURTON) that the previous question be voted down, and that the Thompson amendment to the rule, which simply deletes the reference to H.R. 7189, be adopted, and the rule be adopted, so we proceed with the legislation.

H.R. 7189 was a separate bill that was considered in separate fashion by the committee. It was not a part of the Surface Transportation Act. This legislation may have merit for the gentleman from Hawaii, and I understand his efforts to do this and understand why it was placed in the rule by him. But this is a controversial national issue. It is before the Committee on Education and Labor. Those of us on the Committee on Interstate and Foreign Commerce did not want to bring this before the House as part of our bill.

It is not part of our effort to have this considered in this rule and therefore I hope the Members will vote down the previous question and support the Thompson amendment and then we will proceed with the Surface Transportation Act on its merits in the manner in which it was voted out of the committee. The Surface Transportation Act has been ex-

December 9, 1974

CONGRESSIONAL RECORD—HOUSE

H 11445

congressional committees of counsel who would have been required to take the position that the materials were public property.

Ms. HOLTZMAN. I understand the explanation the gentleman is giving me. It seems to me a little bit inconsistent, however, to take the position that we, 435 Members of Congress, do not want to decide the matter of ownership but instead will leave it to the courts to decide, but at the same time we are not permitting an adversary proceeding to take place because the Department of Justice has already made the decision that the tapes and the Presidential papers of Richard Nixon belong to him. I am concerned there will not be an adequate adversary presentation of this issue of ownership. However, I will not object.

Mr. BRADEMAs. Mr. Speaker, I appreciate the observations of the gentleman. I sincerely hope the Department of Justice will be a serious adversary in any litigation regarding the issue of ownership and that there will be an adequate adversary presentation.

Mr. Speaker, I would like to say that the substance of the House provision deleted by the Senate amendment was originally proposed by the gentleman from New York (Ms. HOLTZMAN) and I appreciate her interest in this provision and her strong support of this legislation.

Ms. HOLTZMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Senate amendments to the House amendment were concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BRADEMAs. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 5385, SURFACE TRANSPORTATION ACT OF 1974

Mr. MATSUNAGA. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1485 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 1485

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5385) to restore and maintain a healthy transportation system, to provide financial assistance, to improve competitive equity among surface transportation modes, to improve the process of Government regulation, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to

be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be read for amendment by titles instead of by sections, and all points of order against section 102 of said substitute for failure to comply with the provisions of clause 4, rule XXI are hereby waived. It shall be in order to consider without the intervention of any point of order the text of the bill H.R. 7189 if offered as an amendment to the committee amendment in the nature of a substitute. At the conclusion of the consideration of the bill H.R. 5385 for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 5385, the Committee on Interstate and Foreign Commerce shall be discharged from the further consideration of the bill S. 1149, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and insert in lieu thereof the provisions of H.R. 5385 as passed by the House.

The SPEAKER. The gentleman from Hawaii is recognized for 1 hour.

Mr. MATSUNAGA. Mr. Speaker, I yield 30 minutes to the gentleman from Nebraska (Mr. MARTIN), pending which I yield myself such time as I may consume. Mr. Speaker, House Resolution 1485 provides for consideration of H.R. 5385, which, as reported by our Committee on Interstate and Foreign Commerce, would, among other things, restore and maintain a healthy national surface transportation system, provide needed financial assistance, improve competitive equity among surface transportation modes, and improve the process of Government regulation of the railroads. The resolution provides an open rule with 1 hour of general debate, with the time being equally divided between, and controlled by, the chairman of the committee and the ranking minority member.

After general debate, the bill would be read for amendment under the 5-minute rule. It would be in order, under the 5-minute rule, to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce and which is now printed in the bill as an original bill. The substitute would be read for amendment by titles instead of by sections, and all points of order against section 102 of the substitute for failure to comply with the provisions of clause 4, rule XXI, would be waived.

It would also be in order to consider without the intervention of any point of order, the text of the bill, H.R. 7189, if offered as an amendment to the committee amendment in the nature of a substitute.

At the conclusion of the consideration of H.R. 5385 for amendment, the committee will rise and report the bill to the House with such amendments as may have been adopted, and any member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute.

The previous question will be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 5385, the Committee on Interstate and Foreign Commerce will be discharged from the further consideration of the bill, S. 1149, and it will then be in order in the House to move to strike out all after the enacting clause of S. 1149 and to insert in lieu thereof the provisions of H.R. 5385 as passed by the House.

Mr. Speaker, several decades ago, America's rail network was its lifeline. Most of the country's freight and travelers were carried by the railroads. The railroad industry was then in excellent financial condition. But all that has changed in recent years.

Today, railroads move less than 40 percent of the intercity freight, and only a fraction of the intercity passengers. Major rail companies in the Northeast are in bankruptcy, and several others in the Midwest are in serious financial difficulties.

The rail industry just did not keep up with an expanding economy and a fast-changing technological revolution. However, irrespective of the question of the industry's lack of necessary innovations, government—at both State and Federal levels—must assume its share of the blame. The cumbersome, slow process of ratemaking, division of rates, merger proposals and other vital matters to the industry have caused enormous roadblocks to rapid, necessary changes in the industry.

Mr. Speaker, H.R. 5385 is designed to give new life to America's rail industry. Based on the industry's urgent needs, the reported bill, for example, would:

First, provide Federal Government backing for up to \$2 billion in loans for railroads to modernize and develop their physical plant and acquire new freight cars;

Second, authorize an appropriation of \$15 million to the Secretary of Transportation to conduct two studies: National freight car utilization system and railroad electrification study.

Third, ban discriminatory taxation of transportation property by States or their subdivisions.

Fourth, give the Interstate Commerce Commission a maximum period of 2 years, from the date of enactment of the bill, to establish and maintain standards for determination of adequate rate levels for surface transportation modes; and

Fifth, mandate or prohibit certain other ICC activities, all designed to assist the railroads and their employees.

Mr. Speaker, the only cost of the program provided under H.R. 5385 will be the \$15 million authorized for the Department of Transportation studies, un-

H 11444

CONGRESSIONAL RECORD—HOUSE

December 9, 1974

paid out of the general fund of the Treasury of the United States such amount or amounts as may be adjudged just by that court."

These amendments combine two sections in the House-passed measure—sections 103 and 106—to make clear that the U.S. District Court for the District of Columbia shall have exclusive jurisdiction to hear all challenges to this legislation, including challenges to the legal and constitutional validity of this title and any challenge regarding the question of title, custody, possession, or control of these tapes and materials and the payment of "just compensation" which may be required. The amendment also deletes the provision for a three-judge court with direct appeal to the Supreme Court. This amendment would thereby enable a single judge of the U.S. District Court for the District of Columbia to hear any challenge to this legislation. The amendment provides that any challenges to this legislation receive priority consideration and that all appeals be heard on an expedited basis.

The amendment would allow for an expeditious review of any legal challenge to this legislation. There is now pending before a single-judge District Court for the District of Columbia a proceeding in which the major issues have already been briefed and argued and in which the major parties are present. Under the amendment, the pleadings in the pending litigation could be amended to take into account additional issues regarding the validity of the legislation and the United States could be added as a defendant to any claim for compensation by Mr. Nixon.

The amendment also deletes the express language in the House-passed bill which provides that the bill takes no position on ownership of the material prior to enactment.

The legislation still takes no position on ownership. However, the Senate felt that this language was unnecessary because the legislative history in the Senate and House is clear on this point.

(1) On page 14, line 22, delete section 107, relating to participation in certain court actions by the appointment of a special counsel.

Section 107 was initially proposed to respond to the problem of relying on the Department of Justice to represent the public interest in any challenge to this legislation in view of Attorney General Saxbe's legal opinion which concluded that the material is Mr. Nixon's private property.

The Senate amendment deletes a provision in the House-passed bill that authorizes the House Administration Committee and the Senate Government Operations Committee to appoint, either jointly or separately, a special counsel to intervene in relevant litigation to insure proper and adequate presentation of the issues.

This section was deleted by the Senate because it was felt to be inconsistent with a fundamental assumption of this legislation that the Congress, in this bill, is taking no position on ownership of

the material prior to enactment of the legislation. This section in the House bill would provide for the appointment by congressional committees of counsel who would be required to take the position that the tapes and materials are public property.

Further, the amendment was viewed by the Senate as unnecessary for the following reason. The new "judicial review" section, section 105, would provide that any challenge to this legislation could be considered as part of litigation which is now pending in the U.S. District Court for the District of Columbia. Since most of the issues in this litigation have been fully briefed and competently argued, and since the issues in any challenge to this litigation will be essentially the same, the public interest will be fully represented. And, if it becomes apparent that a particular point may not be adequately represented, the judge presiding over such litigation could appoint an amicus curiae to argue these points.

Mr. CLEVELAND. Mr. Speaker, proceeding further, under my objection, the gentleman from Indiana has explained the Senate amendments. I was interested in the reason why they deleted the language that referred to title. I would like to ask him if he is fully satisfied with the legislative history in both the Senate and House which has made clear that this legislation is in no way going to be interpreted as affecting title to or ownership of Presidential papers, et cetera.

Mr. BRADEMAS. Mr. Speaker, I agree fully with the interpretation of the gentleman from New Hampshire.

Mr. CLEVELAND. With that assurance, Mr. Speaker, I withdraw my reservation of objection.

Mr. DENNIS. Mr. Speaker, further reserving the right to object, can my friend from Indiana tell me whether all the Senate amendments are germane?

Mr. BRADEMAS. Yes.

Mr. DENNIS. And why is it that we are proceeding here on this rather complicated matter without any conference report before us?

Mr. BRADEMAS. I might respond to my colleague by reminding him that last week we did pass this bill by unanimous vote, by voice vote. It was therefore not thought to be controversial.

The bill was reported by the subcommittee unanimously, reported by the Committee on House Administration by a vote of 20 to 0, and, as I have just said, was unanimously approved by the House. Because it did not seem to be a controversial matter and because it was worked out with close bipartisan cooperation, most particularly with the help of the gentleman from New Hampshire (Mr. CLEVELAND) and the gentleman from Idaho (Mr. HANSEN), it was thought quite appropriate to move on the bill today.

Mr. DENNIS. Will the gentleman yield further?

Mr. BRADEMAS. Yes.

Mr. DENNIS. As I understand it, the bill does preserve the right to determine the question whether these papers are personal property of the former President and to litigate that, and it provides

that if it is held that they are, that there will be compensation, as provided by the Constitution; is that correct?

Mr. BRADEMAS. The gentleman is correct.

Mr. DENNIS. If I may ask the gentleman a further question, why is it that the possibility of raising those questions is confined only to one U.S. district court, namely, that in the District of Columbia, rather than being able to bring it in the district of southern California, or elsewhere, as would normally be the case?

Mr. BRADEMAS. The answer to that question is, of course—if my colleague from Indiana will yield further—most of the materials which are presently involved in this particular matter are located here within the District of Columbia or the Metropolitan Washington area, and most of the participants, moreover, are in this area.

Mr. DENNIS. I might point out to the gentleman that if the former President should want to litigate the question—and I should imagine that he might be one who might wish to do so—he is located in the California district, but he would have to come here to do it, which is a somewhat unusual provision.

Mr. BRADEMAS. If I may respond to my colleague, it is my understanding that the former President is at present litigating with respect to many of these issues now and is represented here in the District of Columbia by counsel.

Mr. DENNIS. Mr. Speaker, on the representation that my friend from New Hampshire is reasonably well satisfied and that my colleague from Indiana is more than reasonably well satisfied, I will withdraw my reservation.

Mr. BRADEMAS. I thank my colleague.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

Ms. HOLTZMAN. Mr. Speaker, reserving the right to object, I would like to ask the gentleman from Indiana a question with respect to the Senate amendments, because I am concerned, too, about who will represent the interests of the people of the United States on the questions as to who will ultimately have title, whether or not there is to be just compensation paid.

It is my understanding that the Senate at the conference deleted an amendment that would have permitted the House committee and the Senate committee to appoint a counsel; is that correct?

Mr. BRADEMAS. Yes. If the gentleman will yield—

Ms. HOLTZMAN. I will be happy to yield.

Mr. BRADEMAS. We did not go to conference on this matter. The section was deleted by the Senate, and the point that was made by the Senate was that it was inconsistent to have such an arrangement, in view of the fundamental assumption of the legislation, that Congress, in acting on this bill, was not taking any position on ownership of the material prior to enactment of the statute. Under the House version of the bill, provision was made for the appointment by

December 9, 1974

CONGRESSIONAL RECORD—HOUSE

H 11443

Speaker's desk the bill (S. 4016) to protect and preserve tape recordings of conversations involving former President Richard M. Nixon and made during his tenure as President, and for other purposes, with Senate amendments to the House amendment thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 3, line 4, of the House engrossed amendment, after "as" insert: "hereafter".

Page 3, line 21, of the House engrossed amendment, strike out "purpose," and insert: "purpose which is consistent with the provisions of this title, subsequent and".

Page 3, line 22, of the House engrossed amendment, strike out "104" and insert: "103".

Page 4, line 2, of the House engrossed amendment, strike out "current".

Page 4, line 4, of the House engrossed amendment, strike out "104" and insert "103".

Page 4, of the House engrossed amendment, strike out lines 5 to 16, inclusive.

Page 4 line 19, of the House engrossed amendment, strike out "104" and insert: "103".

Page 5, line 4, of the House engrossed amendment, strike out "105" and insert "104".

Page 6, of the House engrossed amendment, strike out lines 1 to 7, inclusive, and insert:

"(6) the need to provide public access to those materials which have general historical significance, and which are not likely to be related to the need described in paragraph (1); and".

Page 7, line 6, of the House engrossed amendment, after "the" the second time it appears insert: "Senate and the".

Page 7, line 7, of the House engrossed amendment, after "Representatives," insert: "respectively,".

Page 7, line 8, of the House engrossed amendment strike out "the House," and insert: "each House, respectively,".

Page 7, of the House engrossed amendment, strike out line 12 and insert: "of either House to change such rules (as far as relating to the procedures of that House) at".

Page 7, line 14, of the House engrossed amendment, strike out "the" where it appears the second time and insert: "that".

Page 7, lines 14 and 15, of the House engrossed amendment, strike out "in the House of Representatives".

Page 7, line 17, of the House engrossed amendment, after "House" insert: "or by the President of the Senate, as the case may be".

Page 8, line 10, of the House engrossed amendment, strike out "in the House of Representatives".

Page 8 of the House engrossed amendment, after line 24 insert:

"(d) The provisions of this title shall not in any way affect the rights, limitations, and exemptions applicable under the Freedom of Information Act, 5 U.S.C. § 552 et seq.

Page 9, of the House engrossed amendment, strike out lines 2 to 13, inclusive, and insert:

"Sec. 105. (a) The United States District Court for the District of Columbia shall have exclusive jurisdiction to hear challenges to the legal or constitutional validity of this title or of any regulation issued under the authority granted by this title, and any action or proceeding involving the question of title, ownership, custody, possession, or control of any tape recording or material referred to in section 101 or to payment of any just compensation which may be due in connection therewith. Any such challenge shall be treated by the court as a matter requiring immediate consideration and resolution and shall have priority on the docket of such court over other cases."

ing immediate consideration and resolution and shall have priority on the docket of such court over other cases."

Page 9, after line 21, of the House engrossed amendment, insert:

"(c) If a final decision of such court holds that any provision of this title has deprived an individual of private property without just compensation, then there shall be paid out of the general fund of the Treasury of the United States such amount or amounts as may be adjudged just by that court."

Page 9, of the House engrossed amendment, strike out all after line 21 over to and including line 10 on page 10.

Page 10, line 12, of the House engrossed amendment, strike out "108" and insert: "106".

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

Mr. CLEVELAND. Mr. Speaker, I reserve the right to object so I may inquire of the gentleman from Indiana about the changes which were made in the Senate to this legislation. I assume the gentleman will address himself to that point. It is difficult to digest the changes in the very few moments that I have had access to them.

Mr. BRADEMAS. Mr. Speaker, if my colleague, the gentleman from New Hampshire, will yield, that is what I propose to do.

Mr. CLEVELAND. Mr. Speaker, I yield to the gentleman from Indiana for the purpose of making that explanation.

(Mr. BRADEMAS asked and was given permission to revise and extend his remarks.)

Mr. BRADEMAS. Mr. Speaker. S. 4016 would provide that the Federal Government retain custody of the Nixon tapes and other Presidential material and would establish a 17-member commission to study the handling of documents of all Federal officials.

S. 4016 was passed by the House on Tuesday, December 3, 1974, under Suspension of the Rules, by unanimous voice vote.

The Senate amendments are generally technical and clarifying in nature:

(a) On page 8, line 4, after the word "as", add the following: "hereafter."

This will make clear that the tapes and other materials may be destroyed only as provided by a law enacted in the future, not by an existing law.

(b) On page 8, line 21, after the word "purpose", delete the comma (",") and add the following: "which is consistent with the provisions of this title, subsequent and";

This is to make clear that Mr. Nixon's right of access shall be consistent with the provisions of this title; for example, that the originals cannot be removed from the Washington metropolitan area, and they shall not be destroyed and that access shall not be provided until security regulations have been issued pursuant to section 103.

(c) On page 9, line 1, delete the following: "current."

This is a technical amendment to make clear that the Government may use the material for any official lawful purpose.

(d) On page 11, line 1, subsection. (6) would read as follows:

"(6) the need to provide access to those

materials which have general historical significance, and which are not likely to be related to the need described in paragraph (1)."

The phrase "related to the Presidency of Richard M. Nixon" has been deleted from this section in the House-passed bill because it is redundant.

The phrase "in a manner which is consistent with procedures which have been used to provide public access to materials of former Presidents" has been deleted because it could be interpreted to mean that Richard M. Nixon could direct the Administrator to place restrictions on access to the Presidential material. The intention of that phrase was to allow the Administrator to place limited restrictions on access to material which may bear on national security or which may be particularly sensitive.

In my judgment, the other subsections of section 104 provides an adequate basis for the Administrator to limit general access or to set timetables for access where appropriate.

Further, the language deleted suggests that there is some established procedure for determining access to Presidential materials; however, procedures utilized by former Presidents have not been uniform. While GSA might want to refer to other Presidential experiences in devising regulations, it may be confusing if they are explicitly instructed to conform their regulations to some set of procedures which do not exist.

(e) On page 12, line 6, and all related amendments.

These amendments simply conform the Senate procedure for disapproving regulations issued by the Administrator to the procedure for House disapproval which is in the House-passed bill.

(f) On page 13, line 24, delete the period (".") and insert in lieu thereof the following:

"(d) The provisions of this title shall not in any way affect the rights, limitations or extensions applicable under the 'Freedom of Information Act, 5 U.S.C., sec. 552, et seq.'"

This language is intended to make clear that access to the material which may otherwise be authorized by the Freedom of Information Act shall not be limited by the provisions of this title.

(g) On page 9, delete lines 4 through 15; page 14, delete lines 2 through 13 and insert in lieu thereof the following:

"Sec. 105. (a) The United States District Court for the District of Columbia shall have exclusive jurisdiction to hear challenges to the legal or constitutional validity of this title or of any regulation issued under the authority granted by this title and any action or proceeding involving the question of title, ownership, custody, possession, or control of any tape recording or material referred to in Sec. 101, or involving payment of any just compensation which may be due in connection therewith. Any such challenge shall be treated by the court as a matter requiring immediate consideration and resolution, and shall have priority on the docket of such court over other cases."

(h) On page 14, at line 21, insert the following new subsection:

"(c) If a final decision of the United States District Court for the District of Columbia holds that any provision of this title has deprived an individual of private property without just compensation, then there shall be

December 9, 1974

CONGRESSIONAL RECORD—HOUSE

H 11441

Mr. Moorhead of Pennsylvania and Mr. Broomfield for, with Mr. Fisher against.
Mr. Rangel and Mr. Rodino for, with Mr. Mills against.
Mr. Cohen and Mr. McFall for, with Mr. Gray against.
Mr. Robison of New York and Mrs. Chisholm for, with Mrs. Holt against.
Mr. Rostenkowski and Mr. Cotter for, with Mr. Clark against.

Until further notice:

Mr. Howard with Mr. Eshleman.
Mr. Carey of New York with Mrs. Green of Oregon.
Mr. Andrews of North Carolina with Mr. Hanna.
Mr. Landrum with Mrs. Grass.
Mr. Byron with Mr. Ashbrook.
Mr. Blatnik with Mrs. Griffiths.
Mr. Chappell with Mr. Luken.
Mr. Danielson with Mr. Rooney of New York.
Mr. Evins of Tennessee with Mr. Hollifield.
Mr. Donohue with Mr. Bell.
Mr. Reuss with Mr. McSpadden.
Mr. Brown of California with Mr. Brown of Ohio.
Mr. Jones of North Carolina with Mr. Chamberlain.
Mr. Ryan with Mr. Devine.
Mr. Meeds with Mr. Minshall of Ohio.
Mr. Grover with Mr. Maraziti.
Mr. Hillis with Mr. Mathias of California.
Mr. Macdonald with Mr. Rallsback.
Mr. Ruppe with Mr. Roncallo of New York.
Mr. Sandman with Mr. Schneebell.
Mr. Towell of Nevada with Mr. Wyman.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER pro tempore (Mr. FULTON). Pursuant to the provisions of clause 3(b) of rule XXVIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all of the additional motions to suspend the rules on which the Chair has postponed further proceedings.

FLOOD DAMAGE

The SPEAKER pro tempore (Mr. FULTON). The unfinished business is the question of suspending the rules and passing the Senate bill (S. 2201).

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. BREAU) that the House suspend the rules and pass the Senate bill (S. 2201), on which the yeas and nays were ordered.

The vote was taken by electronic device and there were—yeas 172, nays 185, not voting 77, as follows:

[Roll No. 659]

YEAS—172

Abzug	Bowen	Clay
Adams	Brademas	Cochran
Addabbo	Breaux	Collins, Ill.
Alexander	Breckinridge	Conyers
Anderson, Calif.	Brinkley	Corman
Annunzio	Brooks	Culver
Armstrong	Burke, Calif.	Danahy
Aspin	Burke, Fla.	Dominick V.
Barrett	Burke, Mass.	Davis, S.C.
Bennett	Burlison, Mo.	de la Garza
Bergland	Burton, John	Dellums
Bevill	Burton, Phillip	Denholm
Bingham	Carney, Ohio	Dent
Blatnik	Casey, Tex.	Diggs
Bolling	Clausen, .	Dingell
	Don H.	Dorn

Downing	Kyros	Schroeder
Dulski	Leggett	Seiberling
Eckhardt	Lehman	Shuster
Edwards, Calif.	Long, La.	Sisk
Esch	Lott	Smith, Iowa
Fascell	McCloskey	Staggers
Flood	McCormack	Stanton
Flynt	Madden	J. William
Foley	Mathis, Ga.	Stanton
Ford	Matsunaga	James V.
Fountain	Meicher	Stark
Fraser	Metcalfe	Stephens
Fulton	Mezvisinsky	Stokes
Fuqua	Mitchell, Md.	Stubblefield
Gettys	Mizell	Stuckey
Gillman	Moakley	Studds
Glin	Moorhead, Pa.	Sullivan
Goldwater	Morgan	Symington
Gonzalez	Moss	Teague
Gubser	Murphy, Ill.	Thompson, N.J.
Hanley	Murphy, N.Y.	Thornton
Hanna	Nedzi	Tierman
Hanrahan	Nix	Traxler
Hansen, Wash.	Obey	Treen
Harrington	Owens	Udall
Hawkins	Patten	Ullman
Hébert	Pepper	Van Derlin
Heckler, W. Va.	Perkins	Vander Veen
Heckler, Mass.	Pickle	Vanik
Helstoski	Poage	Waggonner
Henderson	Preyer	Walde
Hicks	Price, Ill.	White
Holman	Randall	Whitten
Hosmer	Reld	Wilson, Bob
Hungate	Reuss	Wilson,
Johnson, Calif.	Rhodes	Charles H., Calif.
Jones, Ariz.	Roberts	Wilson,
Jones, Tex.	Roe	Charles, Tex.
Jordan	Roncallo, Wyo.	Wright
Kath	Rooney, Pa.	Yates
Kazen	Rose	Young, Ga.
Kluczynski	Rousselot	Young, Tex.
Koch	Germain	Zablocki
	Barbanes	

YEAS—185

Abdnor	Gibbons	Nelsen
Anderson, Ill.	Goodling	Nichols
Andrews,	Green,	O'Brien
N. Dak.	Gross	O'Hara
Archer	Gude	O'Neill
Arends	Gunter	Parris
Ashley	Guyar	Patman
Bafalis	Hamilton	Pettis
Baker	Hammer-	Reyer
Bauman	schmidt	Ree
Beard	Hansen, Idaho	Powell, Ohio
Biaggi	Harsha	Pritchard
Biester	Hastings	Quile
Blackburn	Helms	Quillen
Boland	Hinshaw	Rees
Bray	Holt	Regula
Brotzman	Huber	Riegle
Brown, Mich.	Hudnut	Rinaldo
Broyhill, N.C.	Hunt	Robinson, Va.
Broyhill, Va.	Hutchinson	Rosenthal
Buchanan	Ichord	Roush
Burgener	Jarman	Roy
Burleson, Tex.	Johnson, Colo.	Runnels
Butler	Johnson, Pa.	Ruth
Camp	Jones, Okla.	Sarasin
Carter	Kastenmeier	Satterfield
Cederberg	Kemp	Scherle
Clancy	Ketchum	Sebelius
Cleveland	King	Shoup
Collier	Kuykendall	Shriver
Collins, Tex.	Lagomarsino	Sikes
Conable	Landgrebe	Skubitz
Conlan	Lent	Slack
Conte	Litton	Smith, N.Y.
Coughlin	Lujan	Snyder
Crane	McClory	Spence
Cronin	McCollister	Steed
Daniel, Dan	McDade	Steele
Daniel, Robert	McEwen	Steelman
W., Jr.	McKay	Steiger, Ariz.
Davis, Wis.	McKinney	Steiger, Wis.
Delaney	Mahon	Stratton
Dellenback	Mallory	Symms
Dennis	Mann	Talcott
Derwinski	Martin, Nebr.	Taylor, N.C.
Dickinson	Martin, N.C.	Thomson, Wis.
Drinan	Mayne	Thome
Duncan	Mazzei	Vander Jagt
du Pont	Michel	Vessey
Edwards, Ala.	Milford	Vigorito
Erlenborn	Miller	Walsh
Evans, Colo.	Minish	Wampler
Findley	Mitchell, N.Y.	Ware
Fish	Mollohan	Whalen
Forsythe	Montgomery	Whitehurst
Frelinghuysen	Moorhead,	Widnall
Frenzel	Calif.	Wiggins
Frey	Murtha	Williams
Froehlich	Myers	Winn
Gaydos	Natcher	Wolff

Wyatt	Yatron	Young, S.C.
Wydler	Young, Fla.	Zion
Wylie	Young, Ill.	Zwach

NOT VOTING—77

Andrews, N.C.	Flowers	Mink
Ashbrook	Glaime	Minshall, Ohio
Badillo	Grasso	Mosher
Bell	Gray	Passman
Boggs	Green, Oreg.	Podell
Brasco	Griffiths	Price, Tex.
Broomfield	Grover	Rallsback
Brown, Calif.	Haley	Rangel
Brown, Ohio	Hays	Rarick
Byron	Hillis	Robison, N.Y.
Carey, N.Y.	Hollifield	Rodino
Chamberlain	Horton	Rogers
Chappell	Howard	Roncallo, N.Y.
Chisholm	Jones, N.C.	Rooney, N.Y.
Clark	Landrum	Rostenkowski
Clawson, Del	Latta	Roybal
Cohen	Long, Md.	Ruppe
Cotter	Luken	Ryan
Danielson	McFall	Sandman
Davis, Ga.	McSpadden	Schneebell
Devine	Macdonald	Shipley
Donohue	Madigan	Taylor, Mo.
Ellberg	Maraziti	Towell, Nev.
Eshleman	Mathias, Calif.	Wyman
Evins, Tenn.	Meeds	Young, Alaska
Fisher	Mills	

So (two-thirds not having voted in favor thereof) the motion was rejected.

The Clerk announced the following pairs:

On this vote:

Mrs. Boggs and Mr. Rodino for, with Mr. Rarick against.

Until further notice:

Mr. Hays with Mr. Rooney of New York.
Mr. Chappell with Mr. Gray.
Mr. Cotter with Mr. Rarick.
Mr. Rostenkowski with Mrs. Griffiths.
Mr. Howard with Mr. Carey of New York.
Mr. Donohue with Mr. Davis of Georgia.
Mr. Ellberg with Mr. Fisher.
Mr. Evins of Tennessee with Mr. Luken.
Mr. Macdonald with Mr. Chamberlain.
Mr. McFall with Mr. Ashbrook.
Mrs. Mink with Mr. Del Clawson.
Mr. Glaime with Mr. Devine.
Mr. Flowers with Mrs. Grasso.
Mr. Haley with Mr. Bell.
Mr. Brown of California with Mr. Grover.
Mr. Badillo with Mr. Hollifield.
Mrs. Chisholm with Mrs. Green of Oregon.
Mr. Meeds with Mr. Hillis.
Mr. Shipley with Mr. Horton.
Mr. Ryan with Mr. Jones of North Carolina.
Mr. Rogers with Mr. Latta.
Mr. Rangel with Mr. Clark.
Mr. Andrews of North Carolina with Mr. Madigan.
Mr. Byron with Mr. Maraziti.
Mr. Danielson with Mr. Broomfield.
Mr. Landrum with Mr. Mathias of California.
Mr. Long of Maryland with Mr. McSpadden.
Mr. Mills with Mr. Mosher.
Mr. Roybal with Mr. Brown of Ohio.
Mr. Cohen with Mr. Minshall of Ohio.
Mr. Eshleman with Mr. Price of Texas.
Mr. Passman with Mr. Rallsback.
Mr. Robison of New York with Mr. Ruppe.
Mr. Sandman with Mr. Roncallo of New York.
Mr. Schneebell with Mr. Taylor of Missouri.
Mr. Young of Alaska with Mr. Towell of Nevada.

The result of the vote was announced as above recorded.

REPEALING THE REQUIREMENT THAT COMMANDERS OF AIR FORCE FLYING UNITS BE PILOTS

The SPEAKER. The unfinished business is the question of suspending the rules and passing the Senate bill, S. 3906.

file 54016

H11442

CONGRESSIONAL RECORD — HOUSE

December 9, 1974

The Clerk read the title of the Senate bill.

The SPEAKER. The question is on the motion offered by the gentleman from New York (Mr. STRATTON) that the House suspend the rules and pass the Senate bill, S. 3906.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

A House resolution (H. Res. 1421) was laid on the table.

VETERANS AND SURVIVORS PENSION ADJUSTMENT ACT OF 1974

The SPEAKER. The unfinished business is the question of suspending the rules and passing the Senate bill, S. 4040, as amended.

The Clerk read the title of the Senate bill.

The SPEAKER. The question is on the motion offered by the gentleman from South Carolina (Mr. DORN) that the House suspend the rules and pass the Senate bill, S. 4040, as amended, on which the yeas and nays have been ordered.

The vote was taken by electronic device, and there were—yeas 357, nays 1, not voting 76, as follows:

[Roll No. 660]

YEAS—357

Abdnor	Cederberg	Flynt
Abzug	Clancy	Foley
Adams	Clausen	Ford
Addabbo	Don H.	Forsythe
Anderson	Clay	Fountain
Calif.	Cleveland	Fraser
Anderson, Ill.	Cochran	Frelinghuysen
Andrews	Collins, Ill.	Frenzel
N. Dak.	Collins, Tex.	Frey
Annunzio	Conable	Freelich
Archer	Conlan	Fulton
Arends	Conte	Fuqua
Armstrong	Conyers	Gaydos
Ashley	Corman	Gettys
Aspin	Coughlin	Gibbons
Bafalis	Crane	Gilman
Baker	Cronin	Ginn
Barrett	Culver	Goldwater
Bauman	Daniel, Dan	Gonzalez
Beard	Daniel, Robert	Goodling
Bennett	W. Jr.	Green, Pa.
Bergland	Daniels	Gross
Beverly	Dominick V.	Gubser
Biaggi	Davis, S.C.	Gude
Bieber	Davis, Wis.	Gunter
Bingham	de la Garza	Guyer
Blackburn	Delaney	Haley
Blatnik	Dellenback	Hamilton
Boland	Dellums	Hammer-
Bolling	Denholm	schmidt
Bowen	Dennis	Hanley
Bray	Dent	Hanna
Breaux	Derwinski	Hanrahan
Breckinridge	Dickinson	Hansen, Idaho
Brinkley	Diggs	Hansen, Wash.
Brooks	Dingell	Harrington
Brozman	Dorn	Harsha
Brown, Mich.	Downing	Hastings
Broyhill, N.C.	Drinan	Hawkins
Broyhill, Va.	Dulski	Hebert
Buchanan	Duncan	Hechler, W. Va.
Burgener	du Pont	Heinz
Burke, Calif.	Eckhardt	Helstoski
Burke, Fla.	Edwards, Ala.	Henderson
Burke, Mass.	Edwards, Calif.	Hicks
Burleson, Tex.	Ellberg	Hinshaw
Burlison, Mo.	Erlenborn	Holt
Burton, John	Esch	Holtzman
Burton, Phillip	Evans, Colo.	Hosmer
Butler	Fascell	Huber
Camp	Findley	Hudnut
Carney, Ohio	Fish	Hungate
Carter	Flood	Hunt
Casey, Tex.	Flowers	Hutchinson

Ichord	Nedzi
Jarman	Neisen
Johnson, Calif.	Nichols
Johnson, Colo.	Nix
Johnson, Pa.	Obey
Jones, Ala.	O'Brien
Jones, Okla.	O'Hara
Jones, Tenn.	O'Neill
Jordan	Owens
Kartha	Parris
Kastenmeier	Patman
Kazen	Patten
Kemp	Pepper
Ketchum	Perkins
King	Pettis
Kluczyński	Peyser
Koch	Pickle
Kuyker	Pike
dall Kyros	Poage
Lagomarsino	Powell, Ohio
Leggett	Preyer
Lehman	Price, Ill.
Lent	Price, Tex.
Litton	Pritchard
Long, Ia.	Quile
Long, Md.	Quillen
Lott	Randall
Lujan	Rees
McClary	Regula
McCloskey	Reld
McCollister	Rhodes
McCorrack	Riegle
McDade	Rinaldo
McEwen	Roberts
McKay	Robinson, Va.
McKinney	Roe
Madden	Roncald, Wyo.
Madigan	Rooney, Pa.
Mahon	Rose
Mallary	Rosenthal
Mann	Roush
Martin, Nebr.	Rousselot
Martin, N.C.	Roy
Mathis, Ga.	Roybal
Matsuraga	Runnels
Mayne	Ruth
Mazzoli	St Germain
Melcher	Sarasin
Metcalfe	Sarbanes
Mezvinisky	Satterfield
Michel	Scherie
Millford	Schroeder
Miller	Sebellus
Minish	Seiberling
Mink	Shoup
Mitchell, Md.	Shriver
Mitchell, N.Y.	Shuster
Moakley	Sikes
Molloy	Sisk
Montgomery	Skubitz
Moorhead,	Slack
Calif.	Smith, Iowa
Morgan	Smith, N.Y.
Mosher	Snyder
Moss	Spence
Murphy, Ill.	Staggers
Murphy, N.Y.	Stanton
Murthe	J. William
Myers	Stanton
Natchez	James V.

NAYS—1

Landgrebe

NOT VOTING—76

Alexander	Evins, Tenn.	Minshall, Ohio
Andrews, N.C.	Fisher	Mizell
Ashbrook	Gaimo	Moorhead, Pa.
Badillo	Grasso	Passman
Bell	Gray	Podell
Boggs	Green, Oreg.	Rallsback
Braden as	Grimiths	Rangel
Brasco	Grover	Rarick
Broomfield	Hays	Reuss
Brown, Calif.	Heckler, Mass.	Robison, N.Y.
Brown, Ohio	Hillis	Rodino
Byron	Hogan	Rogers
Carey, N.Y.	Hollifield	Roncald, N.Y.
Chamberlain	Horton	Rooney, N.Y.
Chappell	Howard	Rostenkowski
Chisholm	Jones, N.C.	Ruppe
Clark	Landrum	Ryan
Claason, Del	Latta	Sandman
Cohen	Luken	Schneebell
Collier	McFall	Shipley
Cotter	McSpadden	Taylor, Mo.
Danielson	Maddonald	Towell, Nev.
Davis, Ga.	Maraziti	Wyman
Devine	Mathias, Calif.	Young, Alaska
Donohue	Meeds	
Eshleman	Mills	

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The Clerk announced the follow pairs:

Mrs. Boggs with Mrs. Green of Oregon.
Mr. Rostenkowski with Mr. Clark.
Mr. Macdonald with Mr. Rooney of New York.
Mr. Howard with Mrs. Grasso.
Mr. Cotton with Mrs. Griffiths.
Mr. Byron with Mr. Collier.
Mrs. Chisholm with Mr. Mills.
Mr. Donohue with Mr. Davis of Georgia.
Mr. Landrum with Mr. Rarick.
Mr. Rangel with Mr. Gray.
Mr. Moorhead of Pennsylvania with Mr. Ryan.
Mr. Shipley with Mr. Chamberlain.
Mr. McFall with Mr. Luken.
Mr. Brademas with Mr. Hogan.
Mr. Badillo with Mr. Maraziti.
Mr. Brown of California with Mr. Devine.
Mr. Rodino with Mr. Mathias of California.
Mr. Rogers with Mr. McSpadden.
Mr. Reuss with Mr. Minshall of Ohio.
Mr. Meeds with Mr. Mizell.
Mr. Evans of Tennessee with Mr. Ashbrook.
Mr. Gaimo with Mr. Passman.
Mr. Carey of New York with Mr. Eshleman.
Mr. Chappell with Mr. Rallsback.
Mr. Danielson with Mr. Broomfield.
Mr. Hollifield with Mr. Robison of New York.
Mr. Jones of North Carolina with Mr. Roncald of New York.
Mr. Alexander with Mr. Sandman.
Mr. Andrews of North Carolina with Mr. Brown of Ohio.
Mr. Del Clawson with Mr. Ruppe.
Mr. Cohen with Mr. Grover.
Mrs. Heckler of Massachusetts with Mr. Schneebell.
Mr. Horton with Mr. Taylor of Missouri.
Mr. Latta with Mr. Towell of Nevada.
Mr. Young of Alaska with Mr. Wyman.

The result of the vote announced as above recorded.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate agrees to the report of the committee on conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14214) entitled "An act to amend the Public Health Service Act and related laws to revise and extend programs of health revenue sharing and health services, and for other purposes."

The message also announced that the Senate agrees to the amendment of the House with amendments of the Senate to a bill of the Senate of the following titles:

S. 4016. An act to protect and preserve tape recordings of conversations involving former President Richard M. Nixon and made during his tenure as President, and for other purposes.

PROTECTING AND PRESERVING TAPE RECORDINGS INVOLVING FORMER PRESIDENT RICHARD M. NIXON

Mr. BRADEMAs. Mr. Speaker, I ask unanimous consent to take from the